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The Following TAB contains *excerpts* from three sources: the regulation at 25 CFR Part 1.2; the Department's responsive document to the United District Court's inquiries in the litigation involving the Muwekma Ohlone Tribe, Case 1:03-cv-01231-RBW Document 55-1 Filed 11/27/06 ("Explanation to Supplement the Administrative Record filed on November, 27 2006"); and, the District Court's September 28, 2011, decision in Muwekma v. Salazar.

FIRST EXCERPT: REGULATIONS AT 25 CFR PART 1.2

Title 25: Indians

CHAPTER I: BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER A: PROCEDURES AND PRACTICE

PART 1: APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

1.2 - Applicability of regulations and reserved authority of the Secretary of the Interior.

The regulations in chapter I of title 25 of the Code of Federal Regulations are of general application. Notwithstanding any limitations contained in the regulations of this chapter, the Secretary retains the power to waive or make exceptions to his regulations as found in chapter I of title 25 CFR in all cases where permitted by law and the Secretary finds that such waiver or exception is in the best interest of the Indians.

[25 FR 3124, Apr. 12, 1960]

**SECOND EXCERPT: EXPLANATION TO SUPPLEMENT
THE ADMINISTRATIVE RECORD FILED ON NOVEMBER, 27 2006**

Waiver or exceptions to 25 CFR Part 83

Is the Department permitted to waive or make exceptions to its acknowledgement regulations, 25 CFR Part 83?

The Department's general regulations relating to Indians, Title 25 of the Code of Federal Regulations (CFR), provides that the Secretary may waive any of the regulations when he determines that it is in the "best interests of the Indians." The regulations provide:

Notwithstanding any limitations contained in the regulations of this chapter (I), the Secretary retains the power to waive or make exceptions to his regulations as found in chapter I (Pars 1 to 301) of title 25 CFR in all

Assistant Secretary articulate a finding that a waiver or exception was in the best interests of the Indians. The failure to make an express waiver or exception to the regulations in handling lone and Lower Lake and articulate a finding of the best interests of the Indians has caused some confusion. We believe, however, that the underlying record implied that a waiver of the regulations was made to grant the lone Band and the Lower Lake community recognition and placement on the Federal Register list of Indian entities. The implied waivers of the regulations for lone and Lower Lake were much broader than other waivers but were justified by the course of dealings to acquire and hold land in trust for them.

THIRD EXCERPT: MUWEKMA V. SALAZAR, NO. 1:03-CV-01231 (D.D.C.) (FILED 09/28/11)

Finally, the last option for federal acknowledgement available to a Native American group is to seek a waiver of the part 83 requirements, which the Secretary has the authority to grant if a waiver of the requirements would be 'in the best interest of the Indians.' Muwerkma v. Salazar, No. 1:03-cv-01231 (D.D.C.), page 4.

* * *

The Department denied the Muwerkma's requests [for affirmation], stating that it did not have the power to restore the Muwekam to the list of recognized Tribes by Administrative mean. Pl.'s First SJ Mem. At 11; Compl. ¶ 27; Answer at 23 (admitting that '[n]otwithstanding Department actions to the contrary with respect to the Lone Band and Lower Lake, [Department] staff repeatedly advised [Muwerkma] that the Assistant Secretary [of Indian Affairs] lacked authority for administratively reaffirm tribal status.'" Id at 18.